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11 CALIFORNIANS FOR
12 ALTERNATIVES TO TOXICS
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

10 CALIFORNIANS FOR ALTERNATIVES
11 TO TOXICS,

Case No. 3:16-CV-04152-JST

12 Plaintiff,

13 vs.

14 HILFIKER PIPE CO.,

15 Defendant.

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**STIPULATION TO DISMISS
PLAINTIFF'S CLAIMS WITH
PREJUDICE; [PROPOSED] ORDER
GRANTING DISMISSAL WITH
PREJUDICE [FRCP 41(a)(2)]**

16 Plaintiff Californians for Alternatives to Toxics (“CATs”) and Defendant in the above-
17 captioned action, stipulate as follows:

18 WHEREAS, on or about May 23, 2016, CATs provided Defendant with a Notice of
19 Violations and Intent to File Suit (“CWA 60-Day Notice Letter”) under Section 505 of the Federal
20 Water Pollution Control Act (“Act” or “Clean Water Act”), 33 U.S.C. § 1365;

21 WHEREAS, on July 23, 2016, CATs filed its Complaint against Defendant in this Court and
22 said Complaint incorporated by reference all of the allegations contained in CATs’ CWA 60-Day
23 Notice Letter;

24 WHEREAS, CATs and Defendant, through their authorized representatives and without
25 either adjudication of CATs’ claims or admission by Defendant of any alleged violation or other
26 wrongdoing, have chosen to resolve in full by way of settlement the allegations of CATs as set forth
27 in CATs’ CWA 60-Day Notice Letter and Complaint, thereby avoiding the costs and uncertainties of
28 further litigation. A copy of the Parties’ proposed settlement agreement (“Settlement Agreement”)

1 entered into by and between CATs and Defendant is attached hereto as **Exhibit A** and incorporated
2 by reference;

3 WHEREAS, CATs has submitted the Settlement Agreement via certified mail, return receipt
4 requested, to the U.S. EPA and the U.S. Department of Justice ("the agencies") and the 45-day
5 review period set forth at 40 C.F.R. § 135.5 has now expired;

6 NOW THEREFORE, IT IS HEREBY STIPULATED and agreed to by and between the
7 Parties that CATs' claims, as set forth in its CWA 60-Day Notice Letter and Complaint, be
8 dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2). The Parties
9 respectfully request an order from this Court dismissing such claims with prejudice. In accordance
10 with Paragraph 13 of the Settlement Agreement, the Parties also request that this Court retain and
11 have jurisdiction over the Parties through November 1, 2019, for the sole purpose of resolving any
12 disputes between the Parties with respect to enforcement of any provision of the Settlement
13 Agreement.

14 Dated: April 14, 2017

Respectfully submitted,

15 LAW OFFICES OF ANDREW L. PACKARD

16 By: /s/ William N. Carlon
17 William N. Carlon
18 Attorneys for Plaintiff

19 Dated: April 14, 2017

THE ARNOLD LAW PRACTICE

20 By: /s/ James R. Arnold
21 James R. Arnold
22 Attorneys for Defendant

23 **ATTESTATION FOR E-FILING**

24 I hereby attest pursuant to Civil L.R. 5-1(i)(3) that I have obtained concurrence in the filing of
25 this document from the other Signatory prior to filing.

26 Dated: April 14, 2017

27 By: /s/ William N. Carlon

[PROPOSED] ORDER

Good cause appearing, and the Parties having stipulated and agreed,

IT IS HEREBY ORDERED that Plaintiff Californians for Alternatives to Toxics' claims against Defendant Hilfiker Pipe Co., as set forth in CATs' CWA 60-Day Notice Letter and Complaint, are hereby dismissed with prejudice, each side to bear their own attorney fees and costs, except as provided for by the terms of the accompanying Settlement Agreement.

IT IS FURTHER ORDERED that the Court shall retain and have jurisdiction over the Parties with respect to disputes arising under the Settlement Agreement attached to the Parties' Stipulation to Dismiss as Exhibit A until November 1, 2019.

IT IS SO ORDERED.

Dated: April 17, 2017



JON S. TIGAY
UNITED STATES DISTRICT COURT JUDGE